

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

MICHAEL E. TACCINO, SR.,

Plaintiff,

v.

**CIVIL ACTION NO.: 3:19-CV-133
(GROH)**

**ROSE COMMUNITY MANAGEMENT, LLC,
POTOMAC HEIGHTS APARTMENTS,
KAREN SUTHERLAND, Resident Manager,
TRANSUNION CREDIT BUREAU and
HUNTER WARFIELD, INC.,**

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

Now before the Court is a Report and Recommendation ("R&R") issued by United States Magistrate Judge Robert W. Trumble. ECF No. 7. Pursuant to this Court's Local Rules and 28 U.S.C. § 1915(e)(2)(B), this action was referred to Magistrate Judge Trumble for a preliminary review to determine whether the Plaintiff's Complaint set forth any viable claims. ECF No. 4. On September 27, 2019, Magistrate Judge Trumble issued his R&R, recommending that the Plaintiff be given thirty days to file an amended complaint and motion for leave to proceed in form pauperis. ECF No. 7. Magistrate Judge Trumble further recommends that if the Plaintiff fails to file an amended complaint, the Plaintiff's Complaint be dismissed without prejudice and the Plaintiff's Motion for Leave to Proceed in Forma Pauperis be denied as moot.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to conduct a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, this Court is not required to review, under a *de novo* or any other standard, the

factual or legal conclusions of the magistrate judge to which no objection is made. Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file objections in a timely manner constitutes a waiver of *de novo* review and a plaintiff's right to appeal this Court's order. 28.U.S.C. § 636(b)(1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984). Moreover, "[w]hen a party does make objections, but these objections are so general or conclusory that they fail to direct the district court to any specific error by the magistrate judge, *de novo* review is unnecessary." Green v. Rubenstein, 644 F. Supp. 2d 723, 730 (S.D. W. Va. 2009) (citing Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982)).

Objections to Magistrate Judge Trumble's R&R were due within fourteen days after being served with a copy of the same. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The R&R was mailed to the Plaintiff by certified mail, return receipt requested, on September 27, 2019. ECF No. 7. The Plaintiff accepted service on October 11, 2019. ECF No. 8. To date, the Plaintiff has not filed objections to the R&R. Thus, this Court will review the R&R for clear error.

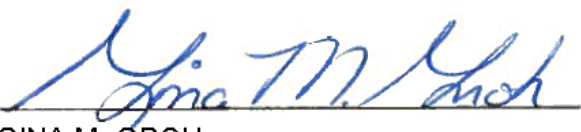
In his R&R, Magistrate Judge Trumble found that the Plaintiff has failed to state a claim upon which relief can be granted. ECF No. 7 at 7. Specifically, 15 U.S.C. § 1631 and § 1681 are merely definitional and do not provide a cause of action under federal law. Id. at 5. Furthermore, the Plaintiff has failed to assert that any collection action has been pursued against him as required by 15 U.S.C. § 1692e. Id. at 6. Magistrate Judge Trumble recommends that the Plaintiff be given thirty days to file an amended complaint and motion for leave to proceed in forma pauperis. Id. at 7. He further recommends

that if the Plaintiff fails to file an amended complaint, the Plaintiff's Complaint be dismissed without prejudice and the Plaintiff's Motion for Leave to Proceed in Forma Pauperis be denied as moot. Id.

Upon careful review, and finding no error of fact or law, the Court **ORDERS** that Magistrate Judge Trumble's Report and Recommendation [ECF No. 7] is **ADOPTED** for the reasons more fully stated therein. The Court **GRANTS** the Plaintiff leave to file an amended complaint and motion for leave to proceed in forma pauperis. If the Plaintiff does not file an amended complaint and motion for leave to proceed in forma pauperis within thirty days, then the Plaintiff's Complaint [ECF No. 1] will be dismissed without prejudice and the Plaintiff's Motion for Leave to Proceed in Forma Pauperis [ECF No. 2] will be denied as moot.

The Clerk is **DIRECTED** to mail a copy of this Order to the pro se Plaintiff by certified mail, return receipt requested, at his last known address as reflected on the docket sheet.

DATED: November 5, 2019



GINA M. GROH
CHIEF UNITED STATES DISTRICT JUDGE